



LAND USE SERVICES DEPARTMENT PLANNING STAFF REPORT



HEARING DATE: February 8, 2007

AGENDA ITEM NO: 4

Project Description

Applicant: Land Use Services Department
Proposal: General Plan Update project to include: an update of the County General Plan goals, policies and maps (including associated land use district changes); the establishment of 13 community plans; and revisions to Title 8 of the San Bernardino County Code (the Development Code).
Index: CW1-849N
CATS: 00243CQ0
Community: Countywide
Location: Countywide
Staff: Randy Scott

Background

On December 7, 2006, staff presented to the Planning Commission a brief overview of the Draft Environmental Impact Report and the environmental review process that had occurred to that date. The Final Environmental Impact Report (FEIR) has now been completed, and the following is a summary of the issues that have been considered and addressed.

❖ ENVIRONMENTAL IMPACTS IDENTIFIED

The Executive Summary of the Draft Program EIR contains Table I-1, I-2 and I-3 on pages I-3 through I-26. Table I-1 summarizes the impacts (pages I-3 to I-18) found to be mitigated below a level of significance. Table I-2 (pages I-19 to I-25) summarizes the impacts found to be significant and unavoidable, and Table I-3 (page I-26) lists one impact found not to be significant requiring no mitigation. The table below is a condensed version of the Executive Summary that displays the environmental categories that were addressed in the EIR, the various impacts that were described and the conclusion regarding the level of impact. Seventy-six discreet impacts were analyzed, of those, 56 were found to be mitigated to less than significant, 1 was found to be non-significant and 19 were determined to be significant and unavoidable.

Impacts Categories	Mitigated to Less than Significant	Significant Unavoidable
Aesthetics		AES-1, AES-2, AES-3
Agricultural Resources		AG-1, AG-2,
Air Quality		AQ-1, AQ-2, AQ-3
Biological Resources	BIO-4, BIO-5, BIO-6, BIO-7, BIO-10, BIO-11, BIO-12, BIO-15, BIO-17, BIO-18	BIO-1, BIO-2, BIO-3, BIO-8, BIO-9, BIO-13, BIO-14, BIO-16
Cultural and Paleontological Resources	CR-1	
Geology and Soils	GEO-1, GEO-2, GEO-3	
Hazards and Hazardous Materials	HAZ-1, HAZ-2, HAZ-3, HAZ-5	HAZ-6

Action taken by the Planning Commission on this item may be appealed to the Board.
Note: Recommendations to the Board of Supervisors are not appealable.

Yes ☐ No ☒

Impacts Categories	Mitigated to Less than Significant	Significant Unavoidable
Hydrology, Flood Hazards and Water Quality	HWQ-1, HWQ-2, HWQ-3	
Land Use and Planning	LU-1, LU-2, LU-3,	
Mineral Resources	MR-1, MR-2	
Noise	N-1, N-2, N-3	
Population and Housing	PH-1, PH-2	
Public Services	PS-1, PS-2, PS-3, PS-4, PS-5	
Public Utilities Systems	UT-1, UT-2, UT-3, UT-4, UT-5, UT-6, UT-7, UT-8, UT-9, UT-10	
Recreation	REC-1, REC-2, REC-3	
Transportation/Traffic	TR-1, TR-4, TR-5, TR-6, TR-7, TR-8,	TR-2, TR-3

❖ COMMENTS ON THE DRAFT PROGRAM EIR

The County received 19 comment letters from federal, state and local government agencies, as well as from a variety of environmental organizations and several individual County residents. Comments from agencies and organizations include the following:

- Federal agencies include the U.S. Navy, Bureau of Land Management, U.S. Forest Service, the National Park Service and the San Manuel Band of Mission Indians.
- State agencies include the Native American Heritage Commission; Governor's Office of Planning and Research/State Clearinghouse, the Department of Fish and Game, the Department of Justice and the State Water Quality Control Board - Santa Ana Region.
- Local governmental entities include the City of Fontana
- Environmental organizations include the Wilderness Society, the Sierra Club, the San Bernardino Valley Audubon Society, the Friends of Fawnskin, and the Center for Biological Diversity.

Within the 19 comment letters, there were 384 individual comments on the Draft Program EIR. Some comments contained multiple topics, resulting in approximately 456 comment points that are addressed in the FEIR. The table below displays the number of comment topics received according to environmental issue.

13	Aesthetics/Visual	3	Geologic/Seismic	1	Solid Waste
1	Agricultural	5	Growth Inducement	29	Traffic/Circulation
43	Air Quality	34	Land Use	1	Toxic/Hazards
14	Archeological/Historical	1	Minerals	24	Water Supply/Groundwater
167	Biological Resources	1	Noise	10	Alternatives
3	Drainage/Absorption	1	Population/Housing	2	Cumulative Impacts
4	Economics/Jobs	18	Recreation/Parks	14	Mitigation Monitoring
1	Flood Plain/Flooding	5	Sewer Capacity	12	CEQA Process
41	Wildfire Hazard/ Evacuation Routes	2	Soil Erosion/ Compaction/Grading	6	Agency Coordination

Approximately 75% (338 comment topics) of all comments received on the Draft Program EIR addressed six topical issues as indicated in the table above. The table reveals that the six topics that received the most comments in descending order are biological resources; air quality; wildfire

hazard/evacuation routes; land use; traffic/circulation; and water supply/groundwater. The numbers of individual comments addressing biological issues were nearly equal to the total comments of the next five highest topics. Although comments were not tracked by geographic context, roughly 50% can be attributed to issues within the Mountain Region of the County.

❖ **CATEGORICAL DISCUSSIONS**

Responses to the comments included in the 19 letters received by the County during the public review period were developed in accordance with Section 15088 of the CEQA Guidelines. Some of the responses to comments resulted in modifications to the text of the EIR making it different from the language presented in the Draft EIR. Those text changes are presented in Section D of Appendix L and are incorporated into the Final EIR

There were several common issues raised in the letters. Comments on several topics recurred in many of the letters. In order to provide a more comprehensive explanation and response to these common issues, seven "Categorical Discussions" have been prepared. Many of the individual responses to comments refer back to the broader based Categorical Discussions listed below.

❖ **CATEGORICAL DISCUSSION 1: PROGRAMMATIC NATURE OF THE EIR'S ANALYSIS AND MITIGATION.**

This EIR is a "Program EIR," which evaluates the broad-scale impacts of the proposed General Plan. Although the legally required contents of a Program EIR are the same as those of a Project EIR, in practice there are considerable differences in level of detail. This Program EIR is more conceptual and abstract than a project level EIR. It contains a more general discussion of impacts, alternatives, and mitigation measures. In accordance with the CEQA Guidelines, the mitigation measures proposed are feasible and are roughly proportional to the impacts of implementing the General Plan. The County received a number of comments requesting additional details regarding the impacts of the proposed project. Where appropriate in the context of a programmatic EIR, additional information requested by the commentor has been provided. In other instances, the request is beyond the scope of a programmatic EIR for a General Plan Program and no additional information has been provided. The programmatic EIR approach taken by San Bernardino County is consistent with many other cities and counties (over 150) that have employed a similar approach in order to comply with CEQA in connection with the update of their General Plans.

As a result, the technical analyses for the Program EIR were conducted at a program level. Since the Program EIR and its respective analyses, focus on overall policy rather than project-specific issues, they contain a more general discussion of impacts, alternatives and mitigation measures. CEQA requires that each subsequent development project be evaluated for their particular site-specific impacts. These site-specific analyses may be encompassed in second-tier documents, such as Project EIRs, Focused EIRs, or Negative Declarations. Pursuant to CEQA Guidelines, Section 15168(c) subsequent activities [development] in the program [General Plan] must be examined in light of the program EIR to determine whether an additional environmental document must be prepared.

❖ **CATEGORICAL DISCUSSION 2: PROGRAMMATIC NATURE OF THE AIR QUALITY ANALYSIS AND MITIGATION.**

The air quality analysis for the General Plan Update was sufficiently prepared pursuant to the requirements outlined in CEQA statutes for a program EIR. Therefore, the proper analysis, evaluation of impacts, and identification of feasible mitigation measures has been

accomplished. CEQA Guidelines require that an EIR include a description of the environment, such as air quality, within the vicinity of a proposed project as it exists at the time the Notice of Preparation/Initial Study is published from both a local and regional perspective. The air quality analysis in the Draft EIR was prepared at a programmatic level based on data that was the most accurate at the time the NOP/IS was published. Supplemental air quality information related to the existing air quality conditions and regulatory standards specific to the County of San Bernardino were provided. This new data, however, is provided for information only and does not alter the conclusions reached in the Draft EIR.

❖ **CATEGORICAL DISCUSSION 3:**

GREENHOUSE GASES, GLOBAL WARMING, AND IMPLEMENTATION OF ASSEMBLY BILL 32.

The California Global Warming Solutions Act of 2006 (AB 32) was signed into law in late September 2006 after the Draft EIR was released for public review. This new law requires the California Air Resources Board (CARB) to develop regulations to establish a reporting system that identifies current emissions of greenhouse gases and to establish a reduction system. Based on the County's consultation with air quality regulatory agencies, there is no regulation or protocol or guidance for evaluating greenhouse gas emissions in CEQA documents as of this time. The Act defines "greenhouse gases" as carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. The Act is set up to establish limits based on annual emissions "expressed in tons of carbon dioxide equivalence," with every other gas evaluated for the amount necessary to have the same impact as one unit of carbon dioxide. The Act has three main parts: (1) emissions reporting requirements, (2) adoption of enforceable emission limits, and (3) development of the State scoping plan.

Under the new law, the CARB is required to determine the level of statewide greenhouse gas emissions in 1990, and the new regulations must reduce greenhouse gas emissions to this level. The program will regulate not only utilities, but the entire range of public and private entities that produce greenhouse gases, including manufacturers and other companies in the chemical, life sciences, technology, oil and gas, waste management, agriculture, and health care industries, among others. The details of the program will be elaborated through rule making by the California Air Resources Board. The bill makes no mention of local governments or how cities and counties may be affected by future regulations. The regulations to be developed by the CARB will address point sources of greenhouse gas emissions, and they may also address mobile sources such as automobiles. After the plan is published, the CARB is to implement emissions reduction measures through formal regulation before January 1, 2011.

The California Global Warming Solutions Act will create a new regulatory program intended to reduce statewide greenhouse gas emissions to their 1990 level. It is not yet clear how, or if, these future regulations would affect local governments or how they might influence local land use planning decisions. From the background discussion above, it is clear that the issue of greenhouse gas reductions extends well beyond the scope of local government actions incorporated in General Plans. Nevertheless, the County of San Bernardino recognizes the importance of this issue. Goals and policies are already incorporated into the General Plan will serve to reduce vehicle trip generation when compared to existing conditions. The county will ensure good air quality for its residents, businesses, and visitors to reduce impacts on human health and the economy.

Some of the comments on this topic suggested that the EIR must include a quantified analysis of greenhouse gas emissions and specify mitigation measures. As these comments were not raised by any agencies in response to the Notice of Preparation but have now been raised

following the release of the Draft EIR, the County in responding to this comment has consulted with staff at the CARB and at the South Coast Air Quality Management District (SCAQMD). The CARB has not issued any guidance to counties or other agencies on the evaluation of greenhouse gases in EIRs or the implementation of AB32 through the CEQA process. Consultation with the SCAQMD indicated that the SCAQMD has not issued any guidance on the evaluation of greenhouse gases in EIRs through the CEQA process. Therefore, based on the level of analysis required for General Plans and the absence of any guidance or implementation from the CARB relative to AB 32, the EIR includes sufficient general disclosure of the project's air quality and greenhouse gases impacts. Further, the County is committed to implementing procedures that may be adopted by the State when they become available in the future.

Finally, some commentors asserted that the EIR should be recirculated based on the passage of AB 32 or the need to evaluate greenhouse gas emissions. Under CEQA, recirculation is required if information added to the Final EIR demonstrates that there is a new significant environmental impact or a substantial increase in the severity of an environmental impact. The Draft EIR disclosed that overall emissions may increase, however, the EIR sets forth mitigation measures which will reduce those emissions, and concluded that despite the imposition of those mitigation measures the impact cannot be reduced to a less than significant level. These conclusions remain unchanged, and the County has determined that recirculation of the Draft EIR is not required based on the comments about greenhouse gas emissions and the County's response to those comments.

❖ **CATEGORICAL DISCUSSION 4:**
WILDLAND FIRE SAFETY AND EMERGENCY EVACUATION ROUTES.

The County's Fire Safety Overlay is a provision in the County Development Code. An Update to the Development Code is a component of the General Plan Update (GPU). The Development Code is the primary tool for implementing the policies of the General Plan. The Development Code Update includes a recent revision to the Fire Safety Overlay that was adopted by the County Board of Supervisors in 2004. The Fire Safety Overlay came out of a Post-Disaster Reconstruction Task Force in 2003 in response to the catastrophic fire damage of the Grand Prix and Old Fires to outline reconstruction procedures for fire victims in an effort to assist rebuilding as expeditiously as possible. A separate sub-committee of the Task Force was established to focus specifically on changes to the County's fire safety building and development requirements to enhance fire safe communities in the future. This sub-committee, consisted of staff from the County Fire Department, the Building and Safety Division, and the Advance Planning Division, California Division of Forestry, U.S. Forest Service, Crest Forest Fire District, Running Springs Fire Department and Big Bear City Fire District, and various interested individuals, groups, and agencies to examine the County's current fire safety related building and development design standards in order to incorporate "lessons learned" from the recent fires. The sub-committee met several times with Fire Chiefs and/or Fire Prevention Officers from the affected fire districts, affected residents, and representatives of mountain Fire Safe Councils, the building industry and mountain building associations. The feedback provided at the meetings resulted in an ordinance that had broad support. The Development Code Amendment included new standards that required the use of noncombustible and/or fire-resistant materials and other building requirements so as to mitigate the potential for future conflagrations.

The topic of wildland fire as a public safety hazard is addressed in the Chapter on Hazards and Hazardous Materials of the Draft EIR. Impacts evaluated include safety hazards to the public residing in and visiting the mountain region of the County. Mitigation Measures call for the use

of the Fire Safety Overlay requirements contained in the County Development Code as the primary method of reducing impacts of wildland fires on future development within the Mountain Region. The significance conclusion for impacts related to safety hazards provide disclosure that, in spite of extensive fire safety development requirements, there still remains a significant unavoidable safety impact due to the inherent risks associated with residing in high fire hazard areas.

Evacuation routes were evaluated more directly as a traffic circulation issue in the Transportation/Traffic impact discussion. Transportation Mitigation Measures specifically address programmatic mitigation to reduce potential safety impacts related to adequate evacuation routes. Mitigation Measures contribute collectively to creating and maintaining a safe and efficient circulation network that, in turn, provides for safe and effective evacuation routes.

The issue of evacuation routes is not an isolated issue that can be considered independent of the entire fire safety approach taken by the County. Evacuation routes are part of the physical infrastructure that, in turn, supports the institutional infrastructure of fire safety and evacuation planning. The pre-planned evacuation strategy prepared by the Mountain Area Safety Task Force (MAST) in early 2003, prior to the occurrence of the Grand Prix and Old Fires, was instrumental in the successful evacuation program for these two catastrophic wildland fires. The MAST effort proved critical to a successful evacuation effort when winds shifted and blew the fire into the mountain communities. At the height of the fire over 4,000 firefighters were assigned to the fire and were successful in protecting over \$7.5 billion in residential and commercial infrastructure. Various evacuation scenarios were considered in the strategy and incorporated pre-planned routes that facilitated the successful evacuation of the affected mountain areas.

MAST has since evolved and is addressing not only the emergency caused by the drought and the bark beetle epidemic, but several other issues both tactical and strategic that are critical to public safety and forest health. These plans provide additional guidance and specific fire strategies for their specific communities.

❖ **CATEGORICAL DISCUSSION 5:**
MITIGATION MONITORING AND REPORTING PROGRAM.

CEQA requires a Lead Agency to “adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.” One of the methods to implement this requirement is to “provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.” The County of San Bernardino, as Lead Agency, has elected to implement the mitigation monitoring requirements of CEQA by incorporating all mitigation measures presented in this FEIR directly into the San Bernardino General Plan, as General Plan policies, and the County Development Code, as development regulations. The Mitigation Monitoring Program is to be adopted with certification of the Final EIR.

❖ **CATEGORICAL DISCUSSION 6:
RECIRCULATION OF THE DRAFT EIR.**

Per CEQA, the Lead Agency is required to recirculate the Draft EIR when "significant new information" is added to the EIR. According to the CEQA Guidelines, "Significant new information" requiring recirculation includes, for example, a disclosure showing that a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented, a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance, a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project but the project's proponents decline to adopt it, or the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. In this case, recirculation is not required because the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

❖ **CATEGORICAL DISCUSSION 7:
PROGRAMMATIC NATURE OF THE BIOLOGICAL ANALYSIS AND MITIGATION.**

The Biology section of the EIR is the first tier of a multi-level environmental review and analysis process, which programmatically analyzes the general biological elements contained in the General Plan. It is not a project level analysis of a specific development proposal (e.g., raptor protection measures, compensatory mitigation ratios to off set impacts, and so forth based on a proposed development). The General Plan establishes an overall policy framework that the County will use as a means of project evaluation. To that end, the Biology Section focuses on the broad policy implications of implementing the General Plan as a whole. Nonetheless, the Valley, Mountain, and Desert Regions of the County include sensitive riparian areas, and Clean Water Act (CWA) and/or California Department of Fish and Game (CDFG) Code 1600 jurisdictional features that are an important landscape linkage in southern California, facilitate the movement and dispersal of substantial numbers of local, state, and federal protected wildlife and plant species, and connect large blocks of natural open space essential for long-term plant/wildlife viability. As a result, specific portions of the Valley, Mountain, and Desert Regions will require subsequent projects to include surveys, and may, in certain circumstances, obligate specific mitigation programs to avoid, minimize, and compensate for adverse impacts to the aforementioned protected wildlife/plant species, sensitive riparian or important landscape linkages, and CWA/CDFG jurisdictional features.

To address this, the General Plan establishes Goals and Policies that define a framework that the County will use as a means of evaluating future development proposals. Furthermore, the framework within the General Plan is consistent with other regional and comprehensive planning documents that the County supports or in which the County participates (e.g., City of Rialto Habitat Conservation Plan for the Delhi sands flower loving fly, Upper Santa Ana Wash Land Management and Conservation Plan, Glen Helen Specific Plan Natural Resource Management Plan, Carbonate Habitat Management Strategy, West Mojave Plan, California Desert Conservation Area Plan, and so forth).

The County has recognized that the current Biological Resource and Open Space Overlay Maps only include discrete local, state, and federally protected species occurrence. Nonetheless, these data serve as indicators for a variety of associated plant and wildlife species and their habitats. Furthermore, other salient graphic references (e.g., designated Critical Habitat, California Natural Diversity Data Base records, soil mapping for the Delhi Sands flower-loving fly, and so forth) are used by the County in determining the need for

subsequent projects to include focused surveys, or specific mitigation programs to avoid, minimize, and compensate for adverse impacts to biological resources. As a result, the County has included an additional implementing program in the General Plan Goals and Policies to improve its current system for identifying important biological resources and natural open space areas by committing to update and enhance the Biological and Open Space Overlays. The County has added a program to General Plan Policy to improve the completeness, function, and utility of the Biological and Open Space Overlays for the updated General Plan and subsequent development project CEQA review.

This commitment to update and enhance the Biological and Open Space Overlays as an implementing program of the General Plan will provide an opportunity to compile and display data collected during the San Bernardino Valley MSHCP effort and the recently completed Linkage Reports for the San Bernardino to Granite, San Gabriel, Little San Bernardino, and San Jacinto Mountains, and integrate sensitive biological data from other traditional sources (e.g., USFWS, California Natural Diversity Data Base, San Bernardino County Museum, BLM, National Park Service, California Native Plant Society, and so forth). An element of the above referenced program shall be the maintenance of a database. Development of this updated database will integrate data from a number of sources. Furthermore, the County has committed to fund the San Bernardino County Museum to review and update the Biological Resources and Open Space Overlays to facilitate an accurate and current spatial data based on local, state, and federally protected species and their habitats.

❖ **DISCUSSION ON ALTERNATIVES**

Because population and growth projections are not an exact science, three alternatives were developed based on population housing and forecasts for the required CEQA alternatives analysis. The growth scenarios were developed in concert with the draft goals and policies and the Vision Statement. Since population and growth can be directed through land use policies as they interact with market conditions, alternative growth scenarios were developed based on differing growth assumptions. Each alternative has been developed in response to public input, an expression of community values relating to land uses, growth, transportation and CEQA requirements to evaluate a no project and substantially different scenarios.

ALTERNATIVE NO. 1 – NO PROJECT ALTERNATIVE (1989 GENERAL PLAN AS AMENDED)

This Alternative retains the 1989 General Plan, as amended, and does not include the Community Plans developed as part of the proposed project, nor would the County Development Code be updated. This Alternative would allow for a population of about 415,000 people in County unincorporated territory.

While the current 1989 County General Plan is not projected to 2030 as the Proposed General Plan Update is, the assumption is made that the SCAG Trend Projection represents the local city general plans, including the County's General Plan. The overall San Bernardino County projections have been provided at a Traffic Analysis Zone (TAZ) level that includes both the incorporated and unincorporated areas of the County. The SCAG TAZ projections, however, do not include the outlying Desert Planning Area that encompasses the City of Needles. Further, the projections based on the city general plans were provided by SANBAG, and these projections were used to guide the development of the Congestion Management Program (CMP) for the region.

In summary, the No-Project Alternative would delay the significant physical environmental effect of the propose update of the County General Plan, but the anticipated significant effect on air quality, noise and circulation and traffic would likely occur at a greater pace with about the same magnitude as the County continues to grow under the 1989 General Plan. For this

reason, the No Project Alternative has been found to not be superior to the proposed project from an environmental perspective.

ALTERNATIVE NO. 2 – REDUCED DEVELOPMENT ALTERNATIVE

Under Alternative No. 2, the County General Plan would only be updated to provide for the growth of the County by 200,000 people (not the 415,000 people estimated keeping the existing General Plan). General Plan goals and policies would also be updated as they would as part of the proposed project. For example, the land use intensities (densities and floor area ratios) of the Land Use Zoning Districts would be reduced, with a corresponding reduction in the Maximum Population Density Averages. This Alternative includes the adoption of the 13 Community Plans prepared as part of the update to the General Plan. The County's Development Code would also be updated as part of this Alternative to implement the updated General Plan.

Generally, the impacts created by this Alternative would be less than the proposed update of the General Plan since only half the future population would be accommodated within the County by the Alternative. When comparing the significant effects of the proposed project to Alternative No. 2, impacts to agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, mineral resources, noise, population and housing services and utilities, recreation, and traffic and circulation are expected to be reduced given the overall reduction in the scale of the growth provided by the updated General Plan. Traffic and related impacts would be approximately half of those under the proposed update of the General Plan. Although these impacts would be less than the impacts from the proposed project, the traffic increase that would occur with this Alternative would still require the installation of traffic improvements throughout the County. Also, the vehicle emissions would still surpass the threshold set by the SCAQMD and would still be considered a significant air quality impact, although to a lesser degree than the proposed project. For the above reasons, the Reduced Intensity Alternative has been determined to be superior to the proposed project from an environmental perspective.

ALTERNATIVE NO. 3 – FUTURE GROWTH IN CITIES SPHERE-OF-INFLUENCE ALTERNATIVE

Under Alternative No. 3, the County General Plan would be updated to accommodate the growth to 409,000 people, the same as the proposed project. However, all the new growth in the County would only occur within the adopted spheres-of-influence of the cities. No growth would occur outside of a city sphere of influence. This Alternative includes the revision to goals and policies such that growth would only occur within city spheres-of-influence. For example, Goals LU-6 and LU-9 and their implementing policies would probably be strengthened to direct virtually all new urban growth into the Spheres of Influence of existing cities. Similarly, many of the Land Use Goals and Policies would need to be rewritten to discourage most, if not all, new growth from occurring in the Mountain and Desert Regions, unless they were located within existing Spheres of Influence. This Alternative would also include the Community Plans developed as part of the proposed update of the County General Plan. This Alternative also includes the update of the County Development Code, as would the proposed update of the General Plan.

Generally, the impacts created by this Alternative would be different than all the other proposed alternatives to the General Plan, since accommodating an additional 414,000 people in the city spheres-of-influence would greatly increase the building densities in these areas with attendant impacts that would be created by increasing density in an area. This alternative would create greater aesthetic, biological resource, land use, noise services, and utility, recreation and transportation and traffic impacts than the proposed update of the General Plan would. Conversely, in the non-build areas, fewer impacts may occur. The Future Growth in Cities

Sphere-of-Influence Alternative is not superior to the proposed update of the General Plan because of the concentrated impacts.

❖ **DISCUSSION ON UNAVOIDABLE IMPACTS AND STATEMENT OF OVERRIDING CONSIDERATIONS**

Under CEQA, a public agency must eliminate or reduce a project's significant environmental impacts when it is feasible to do so. However, when deciding to approve a project, it is also the agency's responsibility to balance environmental, economic, legal, technological and other social factors. A project may be approved under the provisions of CEQA when the project will have some significant impacts, and some or all of those impacts cannot feasibly be avoided or mitigated, but those unavoidable impacts are "overridden" by other factors.

Nineteen impacts were identified in the Draft EIR as being unavoidable significant adverse impacts. They are as follows:

AES-1	Potential damage to scenic resources within a federal, state, county or local scenic highway.
AES-2	Impact to scenic resources recognized by federal, state and local jurisdictions, including open space and recreational areas that offer scenic vistas and views.
AES-3	Create additional amounts of light at night that will impact dark sky areas.
AG-1	Decline of agricultural uses within the County due to urban expansion and economic considerations.
AG-2	Land uses allowed will further accelerate the conversion of the Dairy Preserve to urban uses.
AQ-1, AQ-2, AQ-3	Growth will result in the construction of new roads and infrastructure and the increased urbanization of agricultural lands leading to increased emissions. Growth will also create emissions that affect sensitive populations.
BIO-1	Development will adversely affect candidate, sensitive, or special-status plant and animal species in the Valley and Mountain Regions.
BIO-2	Development will adversely impact riparian habitat or other sensitive natural communities as identified by state and federal agencies in the Valley, Mountain and Desert Regions.
BIO-3	Development will adversely impact protected wetlands and impact native habitat downstream of the limits of a project in the Valley Region. General Plan implementation within the Mountain and Desert Regions will have an indirect effect to downstream wetland and other natural habitat may occur from loss of sediment, natural sediment deposition, and flood control management.
BIO-8	Development will adversely impact riparian habitat or other sensitive natural communities for projects developed within the Mountain Region that are mostly located on privately owned lands.
BIO-9	Development within the Mountain Region may directly and indirectly affect federal protected wetlands.
BIO-13	Development in the Desert Region will adversely affect candidate, sensitive or special-status plant animal species.
BIO-14	Development in the Desert Region will impact riparian habitat or other sensitive natural communities that may be directly affected by ongoing development or indirectly affected by development of adjacent buffer habitat and public use and access. Regional growth may affect riparian habitat that is a very limited resource in the Desert Region.
BIO-16	Development in the Desert Region may impact movement of native resident or migratory fish or wildlife species through established wildlife corridors or impede the use of native wildlife fawning, and land banking sites.
HAZ-16	Development allowed in high fire hazards areas will ultimately be exposed to wildland fires that have the potential to damage or destroy land uses in the path of such fires.
TR-2	Traffic is projected to grow on roadways not under the County's jurisdiction due to continued population growth in each sub-region and surrounding areas. Growth in these areas will result in deficiencies in some roadways in these areas.
TR-3	Traffic is projected to grow on roadways in the counties and surrounding areas adjacent to San Bernardino County due to continued population growth in Riverside, Los Angeles and Orange County. This will result in deficiencies in some roadways in these areas.

CEQA provides that when an agency approves a project that will have significant environmental effects that will not be avoided or substantially lessened, it must make an express written statement describing the project's benefits. Public Resources Code Section 21081(a)(3) and (b) describes the circumstances that allow a public agency to approve a project when it considers the economic, legal, social, technological or other benefits of a project that outweigh the adverse effects on the environment. The CEQA Guidelines require the Lead Agency to adopt a Statement of Findings and Overriding Considerations when the agency chooses to approve a project that may result in significant unavoidable impacts. A Statement of Findings and Overriding Considerations will be prepared for the General Plan Update Program and will be presented to the Commission on February 22, 2007 for consideration. It will be part of the requested recommendation to the Board of Supervisors for action.

❖ **FINAL ENVIRONMENTAL IMPACT REPORT FORMAT**

CEQA requires that the Final EIR for a project consist of the following: (a) The draft EIR or a revision to the draft; (b) Comments and recommendations received on the draft EIR either verbatim or in summary; (c) A list of persons, organizations and public agencies commenting on the draft EIR; (d) The responses of the Lead Agency to significant environmental points raised in the review consultation process; (e) Any other information added by the Lead Agency. (CEQA Guidelines 15132.)

The Final Environmental Impact Report (the FEIR) prepared for the General Plan Update has been published as a "stand alone" document, with incorporation of all changes discussed in an accompanying Appendix L. This approach was selected in an effort to provide current and future users with a complete document in a convenient and "user-friendly" format.

The text of the Draft EIR will be used as the base document, and all modifications to the text being made as a result of comments received will be added. The text changes are identified with a bar in the margin that allows the reader to identify changes from the draft. The comment letters have given rise to additional policies or programs in the General Plan, and modifications to the Draft EIR, the Development Code or Community Plans. Appendix L (Comments on the Draft EIR/Responses to Comments on the Draft EIR) will include a brief explanation of the background and purpose of the appendix, a listing of the CEQA requirements for the FEIR, all comment letters and the responses to those comments, and a listing of all modifications to the Draft EIR and the General Plan Program documents. This appendix will allow the reader to see exactly what has been modified, added or deleted. Appendix L will be organized as follows:

- Section A Background and Purpose
- Section B CEQA Requirements for the Contents of the Final EIR
- Section C Comment Letters and Responses to Comments
- Section D Modifications to the Draft EIR and the 2006 General Plan (this will include changes to the text of the General Plan, the Development Code and any Community Plan)

❖ **DEVELOPMENT CODE CHANGES**

➤ **INFRASTRUCTURE IMPROVEMENT STANDARDS:**

These standards have discussed numerous times at previous Planning Commission hearings and as a result the following changes are being proposed relative to water and sanitation.

Water: The requirements for water and sanitation are important factors relative to these infrastructure improvement standards. The County must ensure that there is adequate area in newly subdivided parcels to provide for reliable potable water supply and proper wastewater disposal. The Updated Code originally was drafted to require projects with urban scale development (new parcels less than 2.5 acres) to connect to a water purveyor and that wells should only be permitted for new subdivisions on parcels that are at least 2.5 acres. However, after receiving public testimony at previous Planning Commission hearings and at the workshops with the Board of Supervisors, staff has reevaluated these requirements and is now proposing a compromise to these standards as originally drafted. The following notes have been added to Table 84-11 for the Desert Region relative to water:

- (10) Projects shall connect to a water purveyor when the nearest property line is within 200 ft. of a water line. This requirement shall be increased by 100 ft. for each residential lot in the project.*
- (11) This requirement applies to all subdivisions creating 5 or more parcels. It will also apply to subdivisions creating 4 or fewer parcels if the provisions of Section 83.09.060 cannot be met.*
- (12) Individual well allowed if no water purveyor is available and when consistent with Water Master requirements in adjudicated groundwater basins.*

The following are the new provisions of Section 83.09.060 as they relate to note 11 above.

83.09.060 – Infrastructure Improvement Standards – Desert Region

The water and sanitation provisions in Table 83-11 shall be met for proposed subdivisions creating 4 or fewer parcels in the Desert Region unless the following standards can be met:

- (a) Wells shall be setback from all property lines and leach lines by 50 ft. and from seepage pits by 150 ft.*
- (b) Septic systems with leach lines shall be setback from property lines by 50 ft.*
- (c) Septic systems with seepage pits shall be setback from property lines by 75 ft.*

Hauled water as a method of meeting assured water requirements would still not be permitted for any new subdivision. Contemporary standards do not consider hauled water as a reliable source of water. Hauled water will be allowed for existing lots of record, but only with the approval of the Divisions of Environmental Health Services. The standard for hauled water for single-family residential existing lots of record was amended to read:

“Hauled water: No hauled water will be allowed without approval from the Division of Environmental Health Services.”

Sewer/Septic Systems: The standards for new subdivisions relative to sanitation have also been amended. The following notes have been added to Table 84-11 for the Desert Region relative to sanitation:

- (13) Sewers shall be required within established sewer service districts and outside such districts when required by the WQCB. Projects shall connect to a sewer system when the nearest property line is within 200 ft. of a sewer line. This requirement shall be increased by 100 ft. for each residential lot in the project.*
- (14) Septic systems are allowed only if the subject parcel is larger than one-half acre, meets WQCB requirements or is not within sewer service district.*

➤ **PARCEL AREA CALCULATIONS:**

Parcel area calculations is another subject that has been discussed several times with the Commission. As was stated in an earlier staff report, with the elimination of the Improvement Levels that are part of the current General Plan, the General Plan Update strives to make a clear delineation between urban and rural areas through policy and through the General Development and Use Standards and the Infrastructure Improvement Standards in the Code. The desire is to identify what is urban vs. what is rural and what distinguishes the differences between the two. Staff believes that the land use zoning districts make a clear distinction of urban vs. rural styles of development and have defined urban vs. rural in the General Development and Use Standards Chapter of Division 3 of the new code. Urban land use zoning districts are listed as Single Residential (RS), Multiple Residential (RM), Special Development (SD) and all commercial, industrial and institutional land use zoning districts. Rural land use zoning districts are listed as Resource Conservation (RC), Agriculture (AG), Rural Living (RL), Floodway (FW) and Open Space (OS). Included in these definitions of urban vs. rural is the requirement to use net area calculations in determining the minimum parcel sizes of new subdivisions of land within urban zoning districts. The net area of a parcel is that area that excludes any area within abutting planned rights-of-way.

The RS-1 Land Use Zoning District is the only zoning where this change will have an impact. However, the change to use net area calculations in RS-1 zoning will help ensure that there is sufficient area within a parcel for wastewater disposal and will help ease concerns over these systems and their proximity to existing wells. It will also reduce the overall density of an area and develop land use patterns that are more consistent with the rural character of the community plan areas in the Desert Region.

➤ **LOT WIDTH ISSUES:**

In conjunction with the testimony received on the parcel area calculation issue, there was a request that the lot width for new subdivisions where the resultant parcels are one acre or larger be revised from 150 feet to 140 feet. Staff has considered this request and believes that 140 feet would be acceptable. Consequently, the Development Standards tables have been amended accordingly.

➤ **SEPARATION OF NON-RESIDENTIAL USES FROM SINGLE-FAMILY RESIDENCES IN THE DESERT REGION:**

An interested party questioned the need for a wall separating non-residential uses from single-family residences in the Desert Region. Staff has evaluated this request and has deleted this requirement for the Desert Region only.

➤ **STORAGE CONTAINERS IN RURAL LIVING LAND USE ZONING DISTRICT:**

Currently, freight containers, railroad cars, intermodal containers and similar structures are prohibited as accessory structures from the Single Residential and Multiple Residential Land Use Zoning Districts unless they are altered to appear to be similar to, and compatible with, the appearance of the on-site primary structure and the surrounding neighborhood. A request has been received to extend this prohibition to the smaller parcels within the Rural Living Land Use Zoning District. Staff has considered this request and believes it would be appropriate. The

draft Development Code has been amended to include parcels less than five acres in the Rural Living Land Use Zoning District in this prohibition.

➤ **AGRITOURISM:**

Since staff introduced the topic of agritourism at the October 19, 2006 hearing, there have been a number of changes made to the original provisions. There are two remaining issues that need to be addressed. Food services has been a part of the definition of agritourism from the beginning, but the question has been raised does this include restaurants. Staff has evaluated this issue and believes there needs to be a distinction between incidental food service and restaurants. Incidental food service has been added to the Table 84-1 as being allowed with just a Site Plan Permit with a minimum acreage requirement of just two acres. However, staff believes that restaurants would need more extensive review and would require larger acreage to buffer the use from the surrounding parcels. Consequently, restaurants were added as requiring a Conditional Use Permit and needing at least 10 acres.

The other issue needing attention is to identify what is needed for those uses that do not require a permanent structure, such as educational tours. These operations would still have environmental impacts on the surrounding areas if not mitigated with the application of specific standards. Staff believes that the Site Plan Permit would be sufficient to address all issues of concern, such as traffic and sanitation facilities, if these operations are conducted on an on-going basis. If no more than four events are planned, a Temporary Special Event Permit would be required. Also, a note has been added to say, "these operations shall have an Environmental Health Services-approved wastewater disposal system and facilities."

➤ **DOG KENNELS:**

Recently, Current Planning staff has received a couple of applications for large numbers of dogs for breeding operations. In reviewing these applications, staff believes that the regulations for private kennels and catteries need to be amended to provide better protection for the nearby residents from such operations and to provide better guidance for those who wish to establish a breeding kennel. Staff has worked with the Preventive Veterinary Services Section of the Public Health Department in drafting proposed changes to the code relative to commercial and private kennels. These proposed changes include:

- ◆ Defining private kennels/catteries as the keeping of between five to 15 dogs or cats that are spayed or neutered.
- ◆ Defining commercial kennels/catteries as boarding, breeding, raising or training of five or more dogs or cats of any age owned or not owned by the owner or occupant of the premises and/or for commercial gain.
- ◆ Restricting private kennels to Resource Conservation, Agriculture, and Rural Living Land Use Districts and commercial kennels to Resource Conservation, Rural Commercial, Rural Living, Agriculture, Service Commercial and Community Industrial Land Use Zoning Districts.
- ◆ Requiring a minimum lot area of 2.5 acres with minor exceptions.
- ◆ Establishing density requirements as follows: Five to 15 adult animals requires 2.5 acres, 16 to 30 adult animals requires five acres, six additional adult animals for each acre above five acres. The maximum number of adult dogs would be 50 for RC, AG, and RL and 200 for commercial and industrial districts.
- ◆ Requiring all animals to be housed in an indoor portion of the kennel from 9 p.m. to 7 a.m. The kennel shall be a solid, four-walled structure with a solid roof. Appropriate exercise areas shall be provided and shall be sheltered from the elements and be secure. Adequate

heating, cooling, lighting, ventilation and bedding must be provided as required to the individual needs of the animals.

➤ **MOBILE HOME PARKS IN RURAL LIVING LAND USE ZONING DISTRICT:**

At the January 11, 2007 Commission hearing, staff reported that mobile home parks would be deleted from the Rural Living Land Use District. Since that time, staff has been advised not to prohibit them but to require that they be built to the density of the underlying zone. This would mean that mobile home parks would have to be built with each home requiring 2.5 acres. The Development Code has been revised accordingly.

➤ **MISCELLANEOUS CHANGES:**

Editorial changes were made to the Development Standard tables relative to "Lot Coverage" for each land use zoning district to change "buildings" or "structures and pavement" to "structures and impervious surfaces." This terminology makes the standard clearer as to what is the maximum percentage of the lot that will not allow water to be absorbed.

➤ **COMMUNITY PLANS:**

Phelan-Pinon Hills: In the preparation of the community plans, staff's intent was to remove all standards from the plans and keep them strictly as policy documents. Several development standards were left in the Phelan-Pinon Hills Community Plan in error. Consequently, staff has removed them from the community plan and has moved them to the Development Code.

At the September 7, 2006 hearing, a speaker commented that the plan should not restrict commercial or industrial structures to 40,000 square feet in size and that the community needs such businesses so the residents do not have to travel to Victorville or Hesperia. He said that the plan limits consumer choice.

The policy addressing this restriction was included in the first draft of the community plan in response to feedback received during the "Visioning" meetings that were conducted early in the update process. This standard was chosen because it is the size of the existing Stater Brothers market in the community. This issue was specifically discussed at the Community Plan meetings. There were some public comments that 40,000 sq. ft. is too restrictive, but the consensus position by the committee and the general public was to include this policy.

In recent weeks, various individuals have brought this issue up again. The Advisory Committee for the Phelan-Pinon Hills Community Plan reconvened to discuss this standard and feel strongly that the policy should remain as drafted. However, after further consideration of this policy, staff believes that the 40,000-square foot standard may be too limiting for certain uses that the community may accept as appropriate, such as additional grocery shopping and other retail services. Also, keeping the policy as drafted is not consistent with our attempt to keep the community plans as policy level documents. Therefore, staff recommends that this absolute size standard, expressed in square footage of floor area, be removed from the policy text, while retaining the characterization of "big box" commercial development. This will allow each project to be evaluated on its own merits on a case-by-case basis and give the community the opportunity to comment whether or not the project is consistent with the community character. The policy would now read as follows:

PH/LU 2.6 Restrict "big box" or other commercial developments that may be out of character with the rural desert character.

Recommendation

CONTINUE the hearing on the General Plan Update to February 22, 2007 for final review.

Attachments

- 1 [Development Code Changes](#)
- 2 [Changes to the Phelan-Pinon Hills Community Plan](#)